

Date of Meeting: December 6, 2005

BOARD OF SUPERVISORS

ACTION ITEM

#4

SUBJECT: APPL 2005-0012 Madison Appeal of HDRC Decision

ELECTION DISTRICT: Catoctin

CRITICAL ACTION DATE: At the Pleasure of the Board

RECOMMENDATIONS

Staff: Staff recommends denial of the Madison appeal.

BACKGROUND

Paul and Milari Madison have filed an appeal of an August 1, 2005 decision of the Historic District Review Committee ("HDRC") to deny their petition to demolish an historic structure in the Waterford Historic and Cultural Conservation District under provisions set forth in the Revised 1993 Loudoun County Zoning Ordinance, Section 6-1907 (D1) and (D2) "Right to Raze or Demolish." In this section of the Ordinance, a property owner may petition the HDRC to demolish a structure in an Historic District without first making a bona fide offer to sell the property if the applicant can establish that: (1) *"the loss of such building, structure, or landmark would not substantially impair the goals sought to be achieved by the establishment of [the Waterford] district"* or (2) *"the forced sale of such building, structure or landmark [40153 Janney Street] would be economically infeasible in relation to its effect on the remaining property of the applicant."* The HDRC denied the petition finding that the petition failed to meet either the criteria required under Section 6-1907 (D1) or (D2) of the Ordinance.

The appeal was heard at the Board of Supervisors' November 9, 2005 public hearing. Fifteen members of the public spoke against the appeal. Public comment predominately addressed the historic significance of the Simms House. The Board voted to place the item on the December 6, 2005 business meeting agenda for action.

ISSUES

This is an appeal of the HDRC denial of a petition to demolish the Simms House in the Waterford Historic and Cultural Conservation District without first offering the property for sale as provided for in the Zoning Ordinance. There were two issues raised in the petition which the HDRC ruled upon, and therefore there are two issues before the Board for this appeal:

1. Is the house historically significant and would the loss of the house substantially impair the goals of the Waterford District?
2. Is it economically feasible to sell the property at a price reasonably related to its fair market value?

The HDRC found that the Madisons failed to establish that the house is not historically significant and that the loss of the house would not impair the Waterford District and, that it would be economically infeasible to sell the property at a price related to its fair market value.

Mrs. Madison stated in her presentation to the Board that she has complied with the Zoning Ordinance by offering only the house for sale for \$5,000. Section 6-1907 (A2) of the Ordinance states that the house *and the land pertaining thereto* must be offered for sale. Therefore, the Zoning Administrator has written a formal determination that the Madisons' offer to sell only the structure does not meet the requirements of the Ordinance. The Madisons have appealed this determination to the Board of Zoning Appeals (BZA). The Madisons have never submitted a bona fide offer to sell the property that meets the requirements of the Ordinance. The BZA will consider the appeal at the December 15, 2005 meeting. This matter is not before the Board.

At the request of Supervisor Kurtz, the offer to sell only the house is attached for the Board's information (Attachment 1). Supervisor Kurtz also requested that a copy of any Madison offer to sell the house with the property be attached for the Board. The Madisons have never applied to the HDRC to demolish the Simms House under Section 6-1907 (A2) by offering the house and land for sale at a rate related to the fair market value of the property, therefore no document of this nature exists.

The Board discussed various issues with the appellant. Supervisor Waters asked Mrs. Madison if she would be willing to sell the house with the land. Mrs. Madison replied that she would consider selling the house with the land for \$750, 000. Supervisor Staton requested that staff present information on current property sales in Waterford to identify comparable listings. Staff has provided that information in (Attachment 2). The listings attached give detailed information about lot size, house size and various property improvements. There are no properties for sale in Waterford that are specifically comparable to 40153 Janney Street, as the listings relate to lots with renovated structures of various sizes. However, the first two listings relate to smaller, renovated or livable homes, on lots larger than the .23 acre 40153 Janney Street property. These properties listed for \$225,000 and \$299,000, but sold for \$217,500 and \$265,000. The remainder of the listings relate to substantially larger, renovated homes and, in many cases substantially larger lots sizes.

Supervisor Staton also requested information on previously approved demolitions in Waterford, including the historic significance of such structures and their condition at the time of demolition. Staff has researched county files related to the Waterford Historic and Cultural Conservation District since its designation in 1972. One house and one garage have been approved for demolition by the HDRC in the District. Specifically:

1. In 1989 the HDRC approved the demolition of a structure located at 15634 Second Street known as the Raymond Paxson Store. It was originally constructed as two outbuildings that were later adjoined. According to local historians, the structure was originally built to house livestock. The structure served as a store front in the mid 20th century and was used as a residence by the 1970's. Regarding the condition of the structure, attached is testimony from Paul Rose, a local contractor who inspected the structure prior to its demolition. Mr. Rose provided this information to the HDRC at the August 1, 2005 meeting (Attachment 3).
2. On September 2, 2005, the HDRC approved a petition to demolish a garage located at 40174 Main Street (to date the garage has not been demolished). The garage dates to the late 1950's and is constructed of cement block (Attachment 4).

Staff notes that a log and frame house on Main Street, known as the Marietta Collins House, collapsed sometime in the early 1970's due to its state of disrepair (Attachment 5). Many structures have been lost over the 200 year history of the village and research has been done on many of these structures. Waterford was designated an historic area in 1972 as a means of protecting and preserving the Village's historic structures.

At the Board meeting, discussion included the current condition of the Simms House and how the condition of the house may affect its historic significance. Supervisor Clem specifically questioned whether enough of the historic structure remained to warrant its preservation. For the Board's consideration, staff has attached photo-documentation related to the renovation of a house at 222 West Loudoun Street in the Leesburg Historic District. The project was approved by the Town of Leesburg's Architectural Review Board (Attachments 6-8). All exterior historic architectural materials had been removed due to poor condition, but the internal framing of the house was retained. Rather than allowing for the demolition of the house, the framing was retained to ensure that the size, scale, massing, roofline and overall historic form was preserved, so that the new construction would be sensitive to the historic district and consistent with the historic streetscape. Although much of the exterior historic materials have been removed from the Simms House, the rehabilitation of the house could be achieved in a similar manner.

The Town of Leesburg's Architectural Review Board has passed a resolution of support of the HDRC's denial of the Madison petition to demolish the Simms House. The resolution is attached for the Board's information (Attachment 9).

FISCAL IMPACT: None

ALTERNATIVES:

The Board of Supervisors could:

1. Deny APPL 2005-0012, thereby upholding the HDRC's August 1, 2005 denial of the Madison petition to demolish and encourage the Madisons to offer the property for sale at a price related to its fair market value as provided for in Section 6-1907 (A2) of the Zoning Ordinance.
2. Approve APPL 2005-0012 and allow for the demolition of the Simms House.
3. Defer action on the appeal to a future Business Meeting.

DRAFT MOTION(S):

1. I move that the Board of Supervisors uphold the August 1, 2005 decision of the Historic District Review Committee to deny the Madisons' petition to demolish the historic structure at 40153 Janney Street in the Waterford Historic and Cultural Conservation District based on the findings of the November 9, 2005 staff report, that the petition failed to meet the required criteria under Section 6-1907 (D1) or (D2) of the Zoning Ordinance.

OR

2. I move to approve APPL 2005-0012 and overturn the August 1, 2005 decision of the Historic District Review Committee to deny the Madisons' petition to demolish the historic structure at 40153 Janney Street in the Waterford Historic and Cultural Conservation District based on finding....

OR

3. I move alternate motion.

ATTACHMENTS:

Attachment 1	Madison Offer to Sell House Only
Attachment 2	Real Estate Listings for Waterford
Attachment 3	Testimony of Paul Rose
Attachment 4	Photo of 40174 Main Street Garage
Attachment 5	Photo of Marietta Collins House
Attachment 6-8	Photos of 222 West Loudoun Street, Leesburg
Attachment 9	Leesburg Architectural Review Board Resolution

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